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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/876,348

06/07/2001

Kathleen L. Horwath

RB-125 RI

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05/11/2005

MARK LEVY & ASSOCIATES, PLLC
PRESS BUILDING, SUITE 902
19 CHENANGO STREET
BINGHAMTON, NY 13901

EXAMINER

ROBINSON, HOPE A

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,348

Applicant(s)

HORWATH ET AL.

Examiner

Hope A. Robinson

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8,9 and 11-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-3,5,6,8,9 and 11-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: 5/6/05
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Application Status

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 14, 2005 has been entered.
2. Applicant's response to the Office Action mailed March 18, 2005 on March 14, 2005 and April 12, 2005 (Supplemental Amendment) is acknowledged.

Claim Disposition

3. Claims 1, 20-23, 26 and 29 have been amended. Claims 4, 7 and 10 have been canceled. Claims 1-3, 5-6, 8-9 and 11-34 are pending. Claims 1-3, 5-6, 8-9 and 11-32 are under examination.
4. This application is in condition for allowance except for the following formal matters:
 - A) Non-elected claims 33 and 34 needs to be cancelled.

Claim Objection

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B) Claims 1 and 6 are objected to because of the following informalities:

Claim 1 is objected to for the recitation of "at least one control solution comprising at least one of the group". For clarity and precision of claim language it is suggested that the claim is amended to recite " at least one control solution selected from at least one of the group consisting of". In addition, the claim recites, "exceed threshold of assay to known amounts of antifreeze protein", it is suggested that the claim is amended to recite, " exceed threshold of assay of antifreeze protein".

For clarity/precision of claim language and consistency, it is suggested, "recombinant products and activators are deleted from the Markush listing in claim 6.

Correction of the above is required.

Specification

C) The specification is objected to because of the following informalities:

The Brief Description of the Drawing on page 19+ of the instant specification is objected to because Figures are listed the do not have the proper sequence notation or recite the notation with extraneous periods, see for example, Figs 1.8, 2.6a-c, 2.7, 2.8, 2.9, 2.10, 3.0, 3.1, 3.2, 3.3, 4.6a-b, 4.10a-b, 4.11a-b, 4.12 a-b, 4.13, 4.14, 4.16, 4.17, 4.18, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, 8.43 and 8.44. See for example page 20, FIG. 1.8, "SEQ. ID No.1". The proper sequence notation is "SEQ ID NO:".

The specification is objected to because on page 102, line 34 no period (.) appears at the end of the sentence. See "summer to winter conditions is observed as leftward shifts of the regression lines This".

Correction of the above and compliance with the sequence rules is required.

5. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Conclusion

6. Claims 1-3, 5-6, 8-9 and 11-32 are free of the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

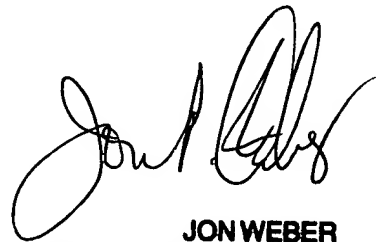
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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope A. Robinson, MS

Patent Examiner

HR
5/6/05

A handwritten signature in black ink, appearing to read "Jon Weber", with a large, stylized initial "J" and "W".

JON WEBER
SUPERVISORY PATENT EXAMINER